



UNITED STATES DEPARTMENT OF COMMERCE
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TS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/201,107	11/30/98	MAYAUD	C CM3-CON

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EXAMINER

KEMPER, M

ART UNIT

PAPER NUMBER

2764

DATE MAILED:

05/24/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/201,107

Applicant(s)

Mayaud

Examiner

Kemper

Group Art Unit

2764

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 2/29/00
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 70-85 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 70-85 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 70-85 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims 70-75 are indefinite because the elements of the claim do not perform a prescription creation, i.e. no prescription is output compare with the output of claim 85. The amendment of "for implementation on a computer" raises ambiguity concerning scope of the claim. The more definite language of --implemented on a computer-- would alleviate the ambiguity.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

4. Claims 79-83 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Goldman et al., patent number 5,542,420.

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Goldman et al. teaches the patient history record display system as shown in col. 2, lines 5-20, col. 2, line 65 - col. 5, line 25, col. 6, line 9 - col. 7, line 4, col. 8, line 61 - col. 9, line 45, col. 10, line 51 - col. 11, line 15).

5. Claim 84 is rejected under 35 U.S.C. 102(a) as being clearly anticipated by Faden et al., "Privacy and Security of Personal Information in a New Health Care System" JAMA 11/93 .

Faden et al. teaches the access control software (see at least page 8).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 84 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al., patent number 5,867,821 in view of Faden et al., "Privacy and Security of Personal Information in a New Health Care System" JAMA 11/93.

Ballantyne et al. teaches the access control software (figs. 9a-9c, col. 7, line 66 - col. 8, line 65). Faden et al teaches providing authorized access at authorized times (see at least page 8). It would have been obvious to one having ordinary skill in the art at the time of the invention to have implemented a condition of authorized access at authorized times as in Faden et al. since the time limitation would have provided further protection of records in computer systems as taught by Faden in the computer system of Ballantyne et al.

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8. Claims 70, 76-77, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox, "RxWriter", Journal of Family Practice, v.37, n.3, p. 296(2), 9/1993.

Fox describes RxWriter which includes patient identifying data, drug identification data, and drug quantification data. Fox also describes a library of drugs, drug formulary information (generic drugs) which are displayed prior to completion of the prescription, however, these are stated as not included in RxWriter. However, it would have been obvious to one having ordinary skill in the art at the time of the invention to have implemented the library and drug formulary information since this information would have improved the efficiency and thoroughness of the system as directly suggested by Fox.

9. Applicant's arguments filed on 2/29/00 have been fully considered but they are not persuasive.

The applicant argues that Goldman et al. fails to disclose displaying a prescription history prior to prescribed treatments. However, the summary of Goldman teaches that a point of the invention and one advantage of the invention is to take into account an individual's accumulated history (col. 3, lines 15-35) in order to personalize the treatment or prescription.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 5,832,450 (abstract, summary); 5,519,607 (abstract, summary); 5,737,539 (claims).

11. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

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or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 305-0040 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Kemper, whose telephone number is 703-305-9589. The examiner can normally be reached on Monday-Thursday from 8:30-6:00. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammell, can be reached at 703-305-9768.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is 703-305-3900.

May 19,2000



M. Kemper
Primary Examiner
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